the vendee has the right to import the liquor for his own use, and such liquor is an article of interstate commerce? The question was first presented to the state courts, and they, apparently departing from their former views, sustained the right of the state to regulate the business of soliciting on the ground that the contract is really made in the state where the vendee is to receive the liquor. *Hart* v. *State,* 39 So. 523; *Jones* v. *Surprise,* 9 Atl. Rep. 384; *Lang* v. *Lynch,* 38 Fed. 489, 4 L. R. A. 831. The latter court says, "soliciting orders for the purchase of liquors constitutes a part of the transaction in the sale of the same." The analagous cases may be mentioned where a state prohibits the soliciting of insurance for foreign insurance companies that have not complied with the state's insurance laws. The courts invariably assert the right to punish such solicitors who violate the law. The Massachusetts courts says, "while the Legislature can not impair the freedom of M. to elect with whom he will contract, it can prevent the foreign insurers from sheltering themselves under his freedom to solicit contracts which otherwise he would not have thought of making," 175 Mass. 154, affirmed in 183 U. S. 553; 155 U. S. 648. The court, in *Delamater* v. *State,* considers this right to solicit orders, which previously existed, as an incident to the right to ship the liquors into another state as an article of interstate commerce and, as such, there sell the same in the original packages. But, as the right to sell after importation is taken away by the Wilson Act, it follows logically that the incidental right to solicit proposals to purchase intoxicating liquors no longer exists. A single conflicting decision has been noticed, that of the Michigan court in *Sloman* v. *Moeb Co.,* 102 N. W. 854, which holds that where a wholesaler contracted in Michigan to sell defendant whiskey shipped from Ohio, the vendor was engaged in interstate commerce and was not required to comply with the laws of Michigan in regard to the sale of intoxicating liquors at wholesale within the state.

CONSTITUTIONAL LAW—EQUAL PROTECTION OF THE LAW—STATE STATUTE.—The Illinois mining act entitled "An Act to Revise the Laws in Relation to Coal Mines and Subjects Relating Thereto, and Providing for the Health and Safety of Persons Employed Therein (Laws of 1899, p. 300; Ill. Rev. Stat., Chap. 93), requires the selection of mine managers and mine examiners from among those holding licenses issued by the state mining board, created by the statute, and, as interpreted by the Supreme Court of Illinois, imposes upon mine owners responsibility for the defaults of said employees. In an action against a mine owner for the death of an employee alleged to have been caused by the negligence of the mine manager, it was contended that the above statute was unconstitutional in that it violated the provisions of the Fourteenth Amendment to the Federal Constitution. The United States Supreme Court *held* the statute constitutional. *Wilmington Star Mining Company* v. *Fulton* (1907), 27 Sup. Ct. Rep. 412.

The basis of the objection to the statute is the alleged incompatibility between the responsibility of the mine owner and the obligation imposed upon him to employ only persons licensed by the state. Statutes similar in their general purpose have been enacted in Pennsylvania and West Virginia, and

these statutes were dealt with in *Durkin* v. *Kingston Coal Co.*, 171 Pa. St. 193, 33 Atl. Rep. 237, 29 L. R. A. 808, 50 Am. St. Rep. 801, and *Williams* v. *Thacker Coal and Coke Co.*, 44 W. Va. 599, 30 S. E. Rep. 107, 40 L. R. A. 812. The Pennsylvania statute was determined by the Supreme Court of that state in the case above cited, to be unconstitutional; it was also there said that the mining foreman is a fellow-servant of the other employees of the same master, engaged in a common business; that the duty of the mine owner is to employ competent foremen to direct his operations, and that when he does this he discharges the full measure of his duty to his employees and is not liable for an injury arising from the negligence of the foreman. The West Virginia court followed the decision in the Pennsylvania case. The Illinois courts have refused to follow the Pennsylvania and West Virginia cases, and in *Henrietta Coal Co.* v. *Martin*, 221 Ill. 460, 77 N. E. Rep. 902, expressly held that under the Illinois mining act, a mine manager and mine examiner were vice-principals of the owner—and were engaged in the performance of duties which the owner could not delegate to others in such manner as to relieve himself from responsibility. The same court has also held (*Consolidated Coal Co.* v. *Seniger*, 179 Ill. 370, 53 N. E. Rep. 733) that it is not obligatory upon a mine owner to select a particular individual, or to retain one when selected, if found incompetent, and it is because of this construction of the statute that the Federal Supreme Court came to the conclusion that the statute in question is not repugnant to the Fourteenth Amendment to the Federal Constitution. The principal case on a former appeal to the Circuit Court of Appeals is reported in 133 Fed. Rep. 197; 66 C. C. A. 247 and 68 L. R. A. 168.

CONSTITUTIONAL LAW—POLICE POWER—FLAG LEGISLATION.—Plaintiffs in error, convicted of violating a statute of Nebraska declaring it an offense to use a representation of the American flag in connection with and as part of an advertisement, contended, on writ of error to the United States Supreme Court, that the statute was unconstitutional as infringing upon their personal liberty, as depriving them of the right to exercise a privilege of citizens of the United States, and as discriminatory in allowing representations of the flag to be printed in books, newspapers, etc., disconnected from advertisements. *Held,* Mr. JUSTICE PECKHAM dissenting, the statute was not repugnant to the Federal Constitution. *Nicholas V. Halter,* and *Harry V. Hayward* v. *State of Nebraska* (1907), 27 Sup. Ct. Rep. 419.

The police power extends to the protection of the public morals. FREUND, POLICE POWER, § 10. In the promotion of this end it is competent for a state legislature (as that of Nebraska has done in this very act) to make it a crime publicly to deface or in any way publicly to cast contempt upon the flag. *People ex rel. McPike* v. *Van de Carr* (1904), 178 N. Y. 425. But it was held in *Ruhstrat* v. *The People* (1900), 185 Ill. 133, and in *People ex rel. McPike* v. *Van de Carr* (1904), 91 App. Div. 20, that provisions like that here attacked, are without the police power of the state. The Illinois case, however, did not escape criticism. FREUND, POLICE POWER, §§ 63 and 183. (In *People ex rel. McPike* v. *Van de Carr* (1904), 178 N. Y. 425, the decision of